

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7343

BILL NUMBER: HB 1185

NOTE PREPARED: Jan 3, 2003

BILL AMENDED:

SUBJECT: Deceptive Electronic Mail.

FIRST AUTHOR: Rep. Stilwell

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ GENERAL
☒ DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill prohibits certain practices when a person sends unsolicited commercial electronic mail. The bill requires a person that sends unsolicited commercial electronic mail to place certain information in the subject line of the electronic mail and remove the electronic mail address of a person who requests to be removed from the sender's electronic mail lists. It prohibits the sale, offer to sell, and distribution in Indiana of software designed solely to falsify the point of origin or the routing information in electronic mail messages. The bill also provides that the Attorney General may seek judicial remedies for violation of the statute.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Attorney General:* This bill establishes conditions for sending unsolicited commercial email. Depending on the extent to which the Attorney General's office brings actions against persons who violated the bill's requirements, the bill could increase the Office's administrative costs. However, since the bill provides that a convicted sender may be ordered to pay the Attorney General's costs associated with investigating and prosecuting the convicted sender's case, the bill's impact on the Office may be partially mitigated (see *Explanation of State Revenues*, below). The bill allows the Attorney General's office to employ counsel to represent the state the event an action is brought against offending email solicitors.

Explanation of State Revenues: A person that does not meet the bill's requirements for senders of commercial e-mail commits a deceptive act actionable by the Attorney General. In a civil action against a sender, the Attorney General may obtain an injunction against the sender and a civil penalty up to \$10,000 for the first violation and a penalty of \$25,000 for the second and subsequent violations. Each unsolicited

e-mail would be considered a separate violation. The court may order the sender to pay the reasonable costs of the Attorney General's investigation and prosecution related to the action.

Court Fee Revenue: If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed. 70% of the filing fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Marion County circuit and superior courts.

Information Sources:

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